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Reinhard Boerner Van Deuren S.C.

PATENT APPLICATION

By: /Leslie S. Miller/
Leslie S. Miller

Date: October 10, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP ART UNIT: 1611

EXAMINER: ISIS A. D. GHALI

In re application of: Peter M.)
Bedding and Franklin L. Pellegrini)
)
Application No: 10/802,342)
)
Confirmation No.: 3643)
)
Filed: March 17, 2004)
)
Attorney Docket No.: 7593-CIP)
)
Customer No.: 22922)
)

For: NUTRITIONAL PRODUCT
AND METHOD FOR
OPTIMIZING NUTRITIONAL
UPTAKE IN EQUINE FOALS
AND OTHER ANIMALS

Commissioner for Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

October 10, 2008

SUMMARY OF TELEPHONIC INTERVIEW

Sir:

In response to the Interview Summary mailed October 8, 2008, and to summarize the telephonic interview with the Examiner on October 1, 2008, Applicants submit this Summary of Telephonic Interview.

The Examiner is thanked for conducting a telephonic interview with William F. Smith, Registration No. 58,346, on October 1, 2008. As set forth in the Interview Summary Form mailed on October 8, 2008, the pending rejection based upon the printout of several web pages relating to products identified as Equilibra 500 and Equilibra was discussed, as well as the Response which was filed on August 7, 2008. As set forth in the Response, it was urged that the printed web pages themselves are not prior art under 35 U.S.C. Section 102(b) since they are not a patent or printed publication that was issued or published more than one year prior to the present effective filing date. Also, as set forth in the response, the Examiner's reliance upon the statement "Uniquely formulated and proven since 1989..." appearing in the "thenaturalapproach.co.uk" web page does not create Section 102(b) prior art. As established in the exhibits submitted with the response, Equilibra 500 was first available in December, 2004, a date after the effective filing date of the present patent application. No agreement was reached, although the Examiner indicated that the facts and the documents establishing those facts would be considered before the next Office Action is issued.

Claim 1-22 and 24-38 remain pending. Reconsideration of the claimed subject matter is respectfully requested, with an early and favorable decision being solicited.

Should the Examiner believe that the prosecution of the application can be so expedited, the Examiner is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

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